



EXPEDITED SPCC SETTLEMENT AGREEMENT  
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 7, 901 N. 5<sup>th</sup> ST., KANSAS CITY, KANSAS 66101

03 SEP 12 AM 9:21

**Facility Name:** Western Engineering Co., Inc.

**Location:** N. Platte Yard, 3201 E. Hwy 30, North Platte,  
NE 69101

**Owner/Operator:** Evert Falkena  
(Respondent)

On August 2, 2002, an authorized representative of the United States Environmental Protection Agency (EPA) conducted an inspection to determine compliance with the Oil Pollution Prevention (SPCC) regulations promulgated at 40 CFR Part 112 under Section 311(j) of the Clean Water Act (33 U.S.C. § 1321(j)) (the Act), and found that Respondent had violated regulations implementing Section 311(j) of the Act by failing to comply with the regulations as noted on the attached Spill Prevention Control and Countermeasure Inspection Findings, Alleged Violations, and Proposed Penalty Form (Form), which is hereby incorporated by reference.

If Respondent does not sign and return this Expedited Settlement as presented within 30 days of the date of its receipt, the proposed Expedited Settlement is withdrawn without prejudice to EPA's ability to file any other enforcement action for the violations identified in the Form.

This proceeding and the Expedited Settlement are under the authority vested in the Administrator of EPA by Section 311(b) (6) (B) (i) of the Act, 33 U.S.C. § 1321(b) (6) (B) (i), as amended by the Oil Pollution Act of 1990, and 40 CFR §§ 22.13(b) and 22.18(b), published at 64 Fed. Reg. 40137 on July 23, 1999. The parties enter into this Expedited Settlement in order to settle the civil violations described in the Form for a penalty of \$2500.00. This settlement is subject to the following terms and conditions:

EPA finds that Respondent is subject to the SPCC regulations, which are published at 40 CFR Part 112, and has violated the regulations as further described in the Form. Respondent admits that he/she is subject to 40 CFR Part 112 and that EPA has jurisdiction over Respondent and Respondent's conduct as described in the Form. Respondent does not contest the Inspection Findings, and waives any objections it may have to EPA's jurisdiction. Respondent consents to the assessment of the penalty stated above.

Respondent certifies, subject to civil and criminal penalties for making a false submission to the United States Government, that the violations have been corrected and Respondent has sent a certified check in the amount of \$2500.00 payable to the "Oil Spill Liability Trust Fund," to:

"Regional Hearing Clerk, Office of Regional Counsel,  
U.S. Environmental Protection Agency, 901 N. 5<sup>th</sup>  
Street, Kansas City, Kansas 66101". Respondent has  
noted on the penalty payment check "CWA-07-2003-  
0211" the docket number of this case.

(Do Not Make Check Out to the Regional Hearing  
Clerk)


**DOCKET NO:** CWA-07-2003-0211  
ENVIRONMENTAL PROTECTION  
AGENCY-REGION VII  
Regional Hearing Clerk

This Expedited Settlement resolves Respondent's liability for Federal civil penalties for the violations of the SPCC regulations described in the Form. However, EPA does not waive any rights to take any enforcement action for any other past, present, or future violations by Respondent of the SPCC regulations or of any other federal statute or regulations. By its first signature, EPA ratifies the Inspection Findings and Alleged Violations set forth in the Form.

Upon signing and returning this Expedited Settlement to EPA, Respondent waives the opportunity for a hearing or appeal pursuant to Section 311 of the Act, and consents to EPA's approval of the Expedited Settlement without further notice.

This Expedited Settlement is binding on the parties signing below, and is effective upon the Regional Judicial Officer's signature.

APPROVED BY EPA:

 Date: 9-10-02

Chief, Emergency Planning & Response Branch, Superfund,  
Division

APPROVED BY RESPONDENT:

Name (print): CARL EPLEY

Title (print): GENERAL MANAGER

Signature: 

IT IS SO ORDERED:

 Date: Sept 11, 2002


Robert L. Patrick  
Regional Judicial Officer

INSTRUCTIONS ON REVERSE

# Spill Prevention Control and Countermeasure Inspection Findings, Alleged Violations, and Proposed Penalty Form

(Note: Do not use this form if there is no secondary containment)

These Findings, Alleged Violations and Penalties are issued by EPA Region 7 under the authority vested in the Administrator of EPA by Section 311(b)(6)(B)(i) of the Clean Water Act, as amended by the Oil Pollution Act of 1990

Company Name Western Engineering Co., Inc		Docket Number: CWA 7 - 2 0 0 3 - 0 2 1 1		
Facility Name North Platte Yard		Date 8/2/02		
Address 3201 E. Hwy 30		Inspection Number F Y - I N S P - 0 2 - 0		
City: North Platte		Inspector's Name: Marc Callaghan		
State: NE	Zip Code: 69101	EPA Approving Official: Bob Jackson		
Facility Contact: Evert Falkena		Enforcement Contacts: Bob Webber Phone Number: (913)551-7251 Alan Hancock Phone Number: (913)551-7647		

## Summary of Findings

(Bulk Storage Facilities)

**GENERAL TOPICS: 112.3(d), (e); 112.5(a), (b), (c); 112.7 (b), (c), (d)**

(When the SPCC Plan review penalty exceeds \$1,000.00 enter only the maximum allowable of \$1,000.00.)

- |                                     |                                                                                                                                                                     |            |
|-------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------|
| <input type="checkbox"/>            | No Spill Prevention Control and Countermeasure Plan .....                                                                                                           | \$1,000.00 |
| <input type="checkbox"/>            | Plan not certified by a professional engineer .....                                                                                                                 | 300.00     |
| <input checked="" type="checkbox"/> | No management approval of plan .....                                                                                                                                | 300.00     |
| <input type="checkbox"/>            | Plan not available for review .....                                                                                                                                 | 300.00     |
| <input type="checkbox"/>            | Plan not maintained on site (applies if facility is manned at least eight (8) hours per day) .....                                                                  | 100.00     |
| <input type="checkbox"/>            | No evidence of three-year review of plan by owner/operator .....                                                                                                    | 50.00      |
| <input type="checkbox"/>            | No plan amendment(s) if the facility has had a change in: design, construction, operation,<br>or maintenance which affects the facility's discharge potential ..... | 50.00      |
| <input type="checkbox"/>            | Amendment(s) not certified by a professional engineer .....                                                                                                         | 100.00     |
| <input type="checkbox"/>            | Inadequate or no prediction of equipment failure which could result in discharges .....                                                                             | 100.00     |
| <input type="checkbox"/>            | Plan does not discuss appropriate containment/diversionary structures/equipment .....                                                                               | 100.00     |

**When drainage from diked areas is to a storm drain, open water course, or lake or pond:**

- ☐ Bypass valve not normally sealed closed ..... 300.00
- ☐ Runoff rain water not inspected and/or will cause a harmful discharge as defined in 40 CFR 110 .... 300.00
- ☐ Bypass valve is not opened and resealed under responsible supervision ..... 100.00
- ☐ Adequate records of drainage events are not maintained ..... 50.00
- ☐ Underground tanks are not protected from corrosion or are not subjected to regular pressure testing. . 100.00
- ☐ Partially buried tanks do not have buried sections protected from corrosion. .... 100.00
- ☒ Aboveground tanks not subject to periodic integrity testing, such as visual, hydrostatic, and nondestructive methods, etc. .... 300.00
- ☐ Outside of tank not frequently observed for signs of deterioration, leaks which might cause a spill, or accumulation of oil inside diked area. .... 300.00
- ☐ Steam return /exhaust of internal heating coils which discharge into an open water course not monitored, passed through a settling tank, skimmer, or other separation system. .... 100.00
- ☐ Records of inspections of aboveground tanks are not maintained ..... 50.00

**Tanks are not "fail-safe" engineered:**

- ☐ No audible or visual high liquid level alarm, or ..... 300.00
- ☐ No high-level pump cutoff devices set to stop flow at a predetermined tank content level, or ..... 300.00
- ☐ No direct communications between tank gauger and pumping station, or ..... 300.00
- ☐ No fast response system for determining liquid levels, such as computers, telepulse or direct vision gauges. .... 300.00
- ☐ No testing of liquid level sensing devices to ensure proper operation ..... 50.00
- ☐ Disposal facilities which discharge plant effluents directly to navigable waters are not monitored frequently to detect oil spills ..... 100.00
- ☐ Visible oil leaks resulting in accumulations of oil in diked areas are not promptly corrected ..... 300.00
- ☐ Mobile or portable storage tanks are not positioned to prevent spilled oil from reaching navigable water, or are in area subject to flooding. .... 100.00
- ☐ Secondary containment inadequate for mobile or portable storage tanks ..... 500.00
- ☐ Plan has inadequate or no discussion of bulk storage tanks ..... 50.00

**FACILITY TRANSFER OPERATIONS, PUMPING, AND IN-PLANT PROCESSES, ONSHORE**  
(excluding Production Facilities) 112.7(e)(3)

- ☐ Buried piping not corrosion protected with protective wrapping, coating, or cathodic protection. .... 100.00
- ☐ Corrective action not taken on buried piping when corrosion damage found ..... 300.00
- ☐ Terminal connections at transfer points on not-in-service or standby pipelines are not capped or blank-flanged and marked as to origin ..... 50.00

IN THE MATTER OF Western Engineering Co., Inc., Respondent  
Docket No. CWA-07-2003-0211

CERTIFICATE OF SERVICE

I certify that the foregoing Expedited SPCC Settlement Agreement was sent this day in the following manner to the addressees:

Copy hand delivered to  
Attorney for Complainant:

Kristina Kemp  
Assistant Regional Counsel  
Region VII  
United States Environmental Protection Agency  
901 N. 5<sup>th</sup> Street  
Kansas City, Kansas 66101


Copy by Certified Mail Return Receipt to:

Evert Falkena  
Western Engineering Co., Inc.  
3201 E. HWY 30  
North Platte, Nebraska 69101

Copy by First Class Mail to:

US. Coast Guard  
Finance Center (OGR)  
1430A Kristina Way  
Chesapeake, VA 23326

Dated: 9/15/03

  
Kathy Robinson  
Regional Hearing Clerk